National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information	Washington, D.C. 20570	Tel. (202) 273-1991
March 4, 2005		W-2989
,	<u>CASES SUMMARIZED</u> VISIT <u>WWW.NLRB.GOV</u> FULL TEXT	
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- Uncontested Reports of Regional Directors and Hearing Officers
- Requests for Review of Regional Directors' Decisions and Directions of Elections and Decisions and Orders

Press Release (<u>R-2555</u>): NLRB Adopts Alternative Procedure in Representation Election Cases

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Family Fare d/b/a Glen's Market (7-RC-22118; 344 NLRB No. 25) Oscoda, MI Feb. 22, 2005. The Board adopted the hearing officer's recommendation to overrule the Employer's objections and certified the Petitioner (Food & Commercial Workers Local 87) as the exclusive collective-bargaining representative of the employees in the appropriate unit. The tally of ballots showed 28 for and 20 against, the Petitioner, with 8 challenged ballots. One of the challenges was resolved by stipulation of the parties before the hearing and as a result, the remaining challenged ballots are not determinative. [HTML] [PDF]

Relying on the Sixth Circuit's decision in *Harborside Healthcare Inc. v. NLRB*, 230 F.3d 206, 212 (6th Cir. 2000), the Employer argued that the prounion activities of Deli Manager Vicki Doran and Bakery Manager Matt Kovachevich prior to the election had interfered with employees' free choice. In overruling the objections, the hearing officer held that even assuming that the department managers were statutory supervisors, their conduct was not objectionable because it was devoid of any threats of reprisal or promises of benefit.

In an earlier determination, the Regional Director found that the department managers are statutory supervisors solely because they have authority to evaluate employees, and their independent assessment of an employee's progress determines how the employee will fare under the reward system. This authority extended only to the employees in each manager's department. The Board concluded that because there was no evidence in the record that Doran and Kovachevich directed their prounion activities toward any employee over whom they exercised their supervisory authority, their conduct could not reasonably have coerced or interfered with employees' free choice in the election.

(Chairman Battista and Members Liebman and Schaumber participated.)

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

O'Keefe Drilling Co., Inc. (Operating Engineers Local 400) Butte, MT February 18, 2005. 19-CA-29222; JD(SF)-14-05, Judge Albert A. Metz.

Long Island Head Start Child Development Services, Inc. (AFSCME District 1707, Local 95) Patchogue, NY February 22, 2005. 29-CA-26343; JD(NY)-09-05, Judge D. Barry Morris.

GM Mechanical, Inc. and Stillwater Services, Inc. (Plumbers Local 162) Covington, OH February 22, 2005. 9-CA-40646, et al., 9-RC-17840; JD(ATL)-4-05, Judge Margaret G. Brakebusch.

Kvaerner Philadelphia Shipyard, Inc. (an Individual) Philadelphia, PA February 23, 2005. 4-CA-32182; JD-12-05, Judge Karl H. Buschmann.

Dish Network Service Corp. (Communications Workers Local 1108) Farmingdale, NY February 25, 2005. 29-CA-26129, et al.; JD(NY)-10-05, Judge Howard Edelman.

Kellogg's Snack Co. (Teamsters Local 560) Orangeburg, NY February 25, 2005. 2-CA-36270; JD(NY)-07-05, Judge Raymond P. Green.

J.J. Cassone Bakery, Inc. (an Individual) Port Chester, NY February 25, 2005. 2-CA-36104; JD(NY)-06-05, Judge Eleanor MacDonald.

Pan American Grain Co., Inc., and Pan American Grain Manufacturing Co., Inc. (Congreso de Uniones Industriales de Puerto Rico) San Juan, PR February 25, 2005. 24-CA-9885; JD-13-05, Judge George Alemán.

HH3 Trucking, Inc., et al. (Teamsters Local 325) Rockford, IL February 25, 2005. 33-CA-14571, et al.; JD(ATL)-07-05, Judge Keltner W. Locke.

TEST OF CERTIFICATION

(In the following cases, the Board granted the General Counsel's motion for summary judgment on the ground that the Respondent has not raised any representation issue that is litigable in the unfair labor practice proceeding.)

Precision Indoor Comfort, Inc. (Sheet Metal Workers Local 33) (8-CA-35080, 344 NLRB No. 24) Akron OH February 16, 2005. [HTML] [PDF]

JZE Electric, Inc. d/b/a Hilliard Electric (Electrical Workers [IBEW] Local 38) (8-CA-35339, 344 NLRB No. 23) Berea, OH February 23, 2005. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

First Student, Inc., Mount Vernon and New Rochelle, NY, 2-RC-22924, February 23, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Continental Tire North America, Inc., Mt. Vernon, IL, 14-RC-12514, February 23, 2005 (Chairman Battista and Member Schaumber; Member Liebman dissenting in part)

DECISION AND ORDER REMANDING [to Regional Director for further appropriate action]

United Rentals, Inc., Pico Rivera, CA, 21-RC-20735, February 23, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board granted requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Verizon Wireless, Inc., San Juan, Puerto Rico, 24-UC-221, February 23, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Wal-Mart Stores, Inc., Loveland, CO, 27-RC-8356, February 25, 2005 (Chairman Battista and Members Liebman and Schaumber)

Miscellaneous Board Orders

ORDER [denying Employer's request for stay of election]

Adventist Glenoaks Hospital, Glendale Heights, IL 13-RC-21289, February 22, 2005 (Chairman Battista and Members Liebman and Schaumber)
